

SIKKIM



GOVERNMENT

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GOVERNMENT OF SIKKIM
DEPARTMENT OF COMMERCE & INDUSTRIES
UDYOG BHAWAN, TADONG, 737102
GANGTOK, SIKKIM

No: 03/C&I/2019-20

Date: 22/08/2019

NOTIFICATION

In exercise of the powers conferred by section 30 read with sub-section (3) of Section 21 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), and in supersession of the Sikkim Micro and Small Enterprises Facilitation Council Rules 2006, the State Government hereby makes the following rules for facilitating the working of Micro and Small Enterprises Facilitation Council (MSEFC) namely:-

Short title and commencement

1. (1) These rules may be called the Sikkim Micro and Small Enterprises Facilitation Council Rules, 2019
- (2) They shall extend to the whole of Sikkim.
- (3) They shall come into force on the date of their Publication in the Official Gazette.

Definitions

2. (1). In these rules, unless the context otherwise requires:-
 - (i) "Act" means the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006);
 - (ii) "Arbitration" and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (26 of 1996);
 - (iii) "Council" means the Sikkim Micro and Small Enterprises Facilitation Council, established by the Government under section 20 of the Act;
 - (iv) "Chairperson" means the Chairperson of the council appointed under clause(i) of sub-section (1) of section 21 of the Act;
 - (v) "Government" means the Government of Sikkim, in the Department of Commerce and Industries;
 - (vi) "Institute" means any institution or centre providing alternate dispute resolution service referred to in sub-section (2) and (3) of section 18 of the Act;
 - (vii) "Member" means a member of the Council;
 - (viii) "MSE" unit means a Micro and Small Enterprise as per the provisions of Act;
 - (ix) "Section" means a Section of the Act;

- (x) "MSEFC" means the Micro and Small Enterprises Facilitation Council;
- (2) Words and expressions used but not defined in the Act shall have the meanings respectively assigned to them in the Act.

**Setting up of the
Micro and Small
Enterprises
Facilitation Council**

- 3. (1) The Government shall establish at least 1 (one) Micro and Small Enterprises Facilitation Council. However, if the work so demands, it can also set up more Micro and Small Enterprises Facilitation Council exercising such jurisdiction and for such area as may be specified in the Notification.
- (2) The Government may also give secretarial assistance to Micro and Small Enterprises Facilitation Council so appointed. It may also designate some Official of the Secretariat to work as the Secretary to the council who can be empowered by Micro and Small Enterprises Facilitation Council to issue notices or orders on behalf of the Council.
- (3) The Government may provide a legal expert to assist the council.
- (4) The Government may specify any fee and/or processing charges to be paid while filing application.

**Manner of
appointment of
Chairperson**

- 4. The Government shall appoint Director of Commerce and Industries Department as Chairperson of the Council keeping in view the provisions contained in clause (i) of sub section (1) of section 21 of the Act. However, any senior officer who is working or has worked in Industries Department may be nominated as the Chairperson of the Council.

**Manner of
appointment of
members of**

- 5. (1) The Micro and Small Enterprises Facilitation Council shall consist of not less than 3 (three) but not more than 5 (five) members, including the Chairperson.
- (2) Members shall be appointed as per provisions of clauses (ii), (iii) and (iv) of sub-section (1) of section 21 of the Act.
- (3) A member appointed under clauses (ii),(iii) and (iv) of Sub-section (1) of section 21 shall cease to be a member of the Council if he or she ceases to represent the category or interest in which he or she was so appointed.
- (4) When a member of the Council dies or resigns or is deemed to have resigned or is removed from office or Becomes incapable of acting as a member, the Government may appoint another person to fill that vacancy.
- (5) Any member if the Council may resign from the Council by tendering one month's notice in writing to the Government.
- (6) The Government may remove any member from office.
 - (a) if he is of unsound mind and stands so declared by a competent court; or
 - (b) if he becomes bankrupt or insolvent or suspends payment to his creditors; or
 - (c) if he is convicted of any offence which is punishable under the Indian Penal Code (Act XLV of 1860),or
 - (d) if he abstains himself/herself from 3 (three) consecutive

meetings of the Council without the leave of the Chairperson and in any case from 5 (five) consecutive meeting; or

- (e) Acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.

Honorarium to the members of the Council

- 6. The remuneration, honorarium or fees and any allowances that may be paid to the members shall be at rates as approved/notified by the Government.

Procedure to be followed in the discharge of functions of the Council

- 7. (1) An aggrieved Micro Small Enterprises unit can move a reference to the Micro and Small Enterprises Facilitation Council having jurisdiction of the area in the format provided as in the Schedule appended to these rules. The reference must have the Udyog Aadhaar Memorandum number, mobile number and email address of aggrieved Micro Small Enterprises unit as provided in the Schedule.
- (2) Such references should be attached with fee or processing charges as notified by the Government, under sub-rule (4) of rule 3 above and with an undertaking from aggrieved Micro Small Enterprises unit that it has not moved a reference before the Civil Court on the same dispute.
- (3) Upon receipt of references from the supplier Micro Small Enterprises unit, the Secretariat of the Council shall enter the date in the web portal created for this purpose.
- (4) After entering the data, acknowledgement of the receipt of reference shall be issued by the Secretariat to the applicant Micro Small Enterprises unit through email.
- (5) The Council may examine the reference at preliminary stage to check regarding the fee or competency of Micro Small Enterprises unit to file the reference.
- (6) In case if the reference or the particulars entered in it is not found to be satisfaction of Council, it may return the reference.
- (7) The Council shall either itself conduct conciliation in the matter or seek the assistance of any Institute for conducting the conciliation and if it decides to do so, shall refer the parties to the Institute.
- (8) The Institute to which the issue is referred makes efforts to bring about conciliation and it shall submit its Report to the Council as soon as possible usually within 15 (fifteen) days from reference to the Council.
- (9) Where the conciliation is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for further action, i.e. arbitration or refer it to an 'Institute' for the same.
- (10) If the matter is referred to the Institute, the Institute shall arbitrate the issue as per the provisions of the Arbitration and Conciliation Act, 1996 and refer the award to the Council.
- (11) The council after finalizing the award or receiving the award from the Institute shall consider the case and pass appropriate final order in the matter.

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| Meetings of the Council and Quorum | 8. (1) The meeting of the council shall be ordinarily held after giving 7 (seven) days notice.
(2) However, in case of urgency, it can be called at such short notice as the Chairperson may find suitable.
(3) All the notices/communication for the meeting shall be informed to the petitioner including through SMS and email.
(4) The Council shall hold regular meetings, at least once (1) a month.
(5) The quorum of meeting will be 2 (two) in case if the number of members is 5 (five). |
| Decision of the Micro and Small Enterprises Facilitation Council | 9. (1) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.
(2) Every reference made under Section 18 to the Micro and Small Enterprises Facilitation Council shall be decided within a period of 90 (ninety) days from the date of making such a reference.
(3) The Secretariat shall upload the proceedings of every meeting of the Council on the web portal created for the purpose.
(4) No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made the Council, shall be entertained by any court unless the appellant (not being a supplier) has deposited with it seventy-five percent of the amount in terms of the decree, award or as the case may be the other order in the manner directed by such court. |
| Progress Report | 10. (1) The Council shall upload the basic information including the annual progress report of the Council on the web portal created for the purpose.
(2) The Council shall provide information to the Member Secretary of the National Board for Micro, Small and Medium Enterprises as defined in the Act in the manner and form required from time to time. |
| Removal of difficulties | 11. (1) All the proceedings imitated as per earlier rules shall continue unabated.
(2) If any difficulty arises during the course of implementation for these rules, the same shall be clarified by the State Govt. in consultation with the Central Government, if required. |

**Dr. Thomas Chandy, IFS,
Additional Chief Secretary,
Commerce & Industries Department**

SCHEDULE
(See rule 7 (1))

Format for Reference on delayed payment to Sikkim MSEFC

To

The Chairperson,
Sikkim Micro and Small Enterprises Facilitation Council
Gangtok.

Reference: U/s 18 of the Micro, Small & Medium Enterprises Development Act, 2006(MSMED)

I am authorized representative of M/sThis firm is a Micro/Small unit as per provisions of MSMED Act, 2006. This unit has supplied the goods to M/s, but it has not been paid as per provisions of Section 15 of the MSMED Act,2006. I therefore, aggrieved with this unit, wish to file a reference. The information pertaining to the case is as under:-

1. Udyog Aadhaar no.
2. Date of Filing application(DD/MM/YYYY):
3. Details of aggrieved MSE unit
 - a. Name of Authorized representative: (Authorization to be attached):
 - b. Name of the Unit:
 - c. Address(Including Pin Code):
 - d. State:
 - e. District:
 - f. Mobile Number:
 - g. Email:
 - h. Type of aggrieved MSE(Micro/Small):
4. Name of Responded (Buyer):
 - a. Address(Including Pin Code):
 - b. State:
 - c. District:
 - d. Mobile Number:
 - e. Email:
 - f. Category of Respondent (buyer) CPSU/State PSU/.....:
5. Principal Amount Payable(Rs.):
6. Interest claims as on:
7. Fee Paid, if any:
 - 6.1 Amount
 - 6.2 Methodology:

8. Documents enclosed in support of claim in respect of supply of goods supply or services rendered as referred above:

- (i).....
- (ii).....
- (iii).....
- (iv).....

I hereby declare that information given above is true to the best of my knowledge. Any information that may be further required, shall be provided immediately before the concerned authority. I further declare that I have not filed/preferred any appeal before any court on the same dispute.

Signature.....

Name.....

Date.....

(Authorized Signatory on behalf of aggrieved MSE)